

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2016
Signature Confirmation

Client ID # ██████████
Request # 788736

NOTICE OF DECISION

PARTY

██████████
c/o ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying benefits to ██████████ (the "Applicant") under the Medicaid for Long Term Care program.

On ██████████ 2016, ██████████, Business Office Manager at Quinnipiac Valley Care Center and administrator of ██████████ estate, (the "Appellant") requested an administrative hearing to contest the Department's decision to deny such benefits.

On ██████████ ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, the hearing did not go forward because the Appellant, who had been appointed estate examiner of the Applicant's estate, did not have proper authority to request a hearing as per Uniform Policy Manual section 1570.05 D.

On ██████████ ██████████ 2016, the Appellant was appointed administrator of the Applicant's estate by the probate court, thereby obtaining proper authority to request a hearing.

On [REDACTED] 2016, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2016.

On [REDACTED] 2016, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[REDACTED], the Appellant, administrator of the estate of the Applicant,

[REDACTED]

[REDACTED] Attorney for Quinnipiac Valley Center

Mario Ponzio, Eligibility Worker, DSS New Haven

Maureen Foley-Roy, Hearing Officer

The hearing record remained open for the submission of additional evidence.

The hearing record closed on [REDACTED] 2016.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Applicant's application for medical assistance for failing to provide information was correct.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Department received an application for Medicaid for Long Term Care assistance signed by the Applicant and authorizing his daughter [REDACTED] and the Appellant to represent him in regards to his application with the Department. (Exhibit 2: Case Narrative)
2. On [REDACTED] 2016, the Applicant passed away. (Appellant's Exhibit D: Death Certificate)
3. On [REDACTED] 2016, the Department sent the Appellant a W1348-Verification We Need form listing outstanding documents necessary to determine eligibility. The deadline listed for providing the information was [REDACTED] 2016. (Exhibit 1: Verification We Need list)
4. Sometime during the week after the Memorial Day holiday, the Appellant contacted [REDACTED] to ask her to continue with the Medicaid application. [REDACTED] informed the Appellant that she had discovered that she was not the Applicant's daughter and she would no longer be involved with the Medicaid application or the Applicant. (Appellant's testimony)
5. The Appellant contacted the facility's attorney to inquire as to the next steps and was advised to immediately contact the Department and

request an extension so the proper legal standing could be obtained. (Appellant's testimony)

6. At the end of [REDACTED] or very beginning of [REDACTED], the Appellant called the eligibility worker assigned to the case and left a voice mail requesting an extension due to the unusual circumstances. (Appellant's testimony)
7. On [REDACTED] 2016, the Department denied the application for Long Term Care for Medicaid because there had been no response to the Verification We Need list. (Appellant's Exhibit C: Denial Notice dated [REDACTED] 2016)
8. Prior to receiving the denial notice, the Appellant emailed the eligibility worker to request an extension. (Appellant's Exhibit A: email dated [REDACTED] 2016)
9. On [REDACTED] 2016, the Department received another application for Medicaid for Long Term care for the Applicant. (Exhibit 2)
10. On [REDACTED] 2016, the Appellant was appointed Estate Examiner for the Applicant's estate. (Appellant's Exhibit A: probate document)
11. On [REDACTED] 2016, the Department used the [REDACTED] 2016 application to grant retroactive Medicaid coverage for the Applicant for the months of [REDACTED] and [REDACTED] of 2016. (Exhibit 3: STAT screens)
12. The Department determined that the Appellant was asset eligible for Medicaid for Long Term care as far back as [REDACTED] of 2016. (Department representative's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual ("UPM") § 1010.05 (A) (1) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.
3. UPM § 1015.05 C states that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

4. The Department was correct when it issued the W1348-Verification We Need form with a listing of outstanding information needed to determine eligibility.
5. UPM § 1505.35 C1 c(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for medical assistance on the basis of age; that standard is forty-five calendar days.
6. UPM § 1505.40 B 1 (b) (1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.
7. UPM § 1505.40 B 4 a 1 and 2 provides that the eligibility determination is delayed beyond the processing standard if because of unusual circumstances beyond the applicant's control, the application process is incomplete and either eligibility cannot be determined or determining eligibility without the necessary information would cause the application to be denied.
8. The Department was incorrect when it denied the Appellant's application because of the unusual circumstances of this case, which were beyond the Appellant's control.

DISCUSSION

The Appellant testified credibly under oath that ■■■ had left a voice mail message for the Department requesting an extension after the Applicant passed away and before the application had been denied. The Department's representative who attended the hearing was not the person for whom the voice mail had been left and therefore could not definitively state that one had or had not been received. Based upon the unusual circumstances of this case, the Department should have granted an extension and not denied the application on the 30th day.

DECISION

The Appellant's appeal is **GRANTED**

ORDER

The Department is to reopen the [REDACTED] [REDACTED] 2016 application and determine eligibility for the retroactive time period associated with that application. Compliance with this order is due by [REDACTED] 2017 and shall consist of documentation that the [REDACTED] [REDACTED] application was reopened.

Maureen Foley-Roy
Maureen Foley-Roy,
Hearing Officer

CC: Brian Sexton, Lisa Wells DSS Operations Managers, New Haven
Cheryl Stuart, DSS Program Managers, New Haven
Mario Ponzio, DSS Eligibility Staff, New Haven

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.